



Alliance for Public Technology

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901 15th Street, NW • Suite 230 • P.O. Box 27146 • Washington, DC • 20038-7146
(202) 408-1403 (Voice/TTY) • (202) 408-1134 (Fax) • apt@apt.org (E-mail) • <http://www.apt.org>

January 26, 1998

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JAN 26 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

Re: Response of the Alliance for Public Technology to
Amended Applications of WorldCom, Inc. and
MCI Communications Corp. for Transfer of
Control to WorldCom, Inc.; CC Docket No. 97-211

Dear Ms. Salas:

Please find enclosed an original and four copies of the
above-referenced submission. I have also enclosed a copy of the
filing on a 3.5" diskette in an IBM-compatible format using
WordPerfect 5.1 for Windows in "read only" mode.

You may reach me at (202)408-0831 if you have any
questions. Thank you for your assistance.

Sincerely,

Maureen A. Lewis
Maureen A. Lewis
General Counsel

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION JAN 26 1998
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amended Applications of WorldCom, Inc) CC Docket No. 27-211
And MCI Communications Corporation for)
Transfer of Control of MCI)
Communications Corporation to)
WorldCom, Inc.)

RESPONSE OF THE
ALLIANCE FOR PUBLIC TECHNOLOGY

The Alliance for Public Technology (APT)¹, a consumer coalition of 84 public interest organizations and more than 180 individuals, submits this response to various comments and petitions concerning the joint applications by MCI Communications Corporation and WorldCom, Inc. to transfer control of MCI's Title II and Title III authorizations and licenses to WorldCom. The Communications Act of 1934, as amended, requires that the Commission determine whether the requested transfer serves "the public interest, convenience and necessity."² In conducting its public interest evaluation, APT strongly urges the Commission to consider whether the proposed transaction will harm, or help, one of the fundamental goals that Congress expressed in the Telecommunications Act of 1996 ("the 1996 Act"). That goal is to

¹ The Alliance was founded in 1988 as a non-profit, tax-exempt membership organization with the charter to foster affordable access by all consumers to advanced telecommunications services. APT's Board of Directors govern the organization.

² 47 U.S.C. Sec. 310 (d). See also, 47 U.S.C. Sec. 214 (a).

ensure equitable, affordable and timely access to advanced telecommunications technology for everyone in the nation. Accordingly, we ask the Commission to examine the proposed merger of MCI and WorldCom in accordance with its obligations under Section 706 of the 1996 Act to “encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans....”³ The Commission’s review of the proposed transaction is particularly significant because of the potential impact of its decision on the Internet backbone. In that light, APT encourages the Commission to act carefully to avoid impeding development of this important telecommunications phenomenon.

APT believes that equitable and affordable access to advanced technologies can significantly enhance the quality of life for all citizens by improving the way we work, learn, participate in government and obtain health care. Consequently, the Alliance has adopted the goal of “advanced universal service,” which seeks

[t]o make available as far as possible, to all people of the United States, regardless of race, color, national origin, income, residence in rural or urban area, or disability, high-capacity, two-way communications networks capable of enabling users to originate and receive affordable and accessible high quality voice, data, graphics, video and other types of telecommunications service.⁴

To ensure that all citizens receive the benefits of these technologies, we have urged the Commission in previous proceedings to implement policies that promote infrastructure investment and access to advanced telecommunications services, as the 1996 Act requires.⁵ This response reiterates the Alliance’s view that advanced

³ 47.U.S.C. Sec.157 note.

⁴ The Alliance for Public Technology, *Connecting Each to All: Principles to Implement the Goal of Advanced Universal Service* (1995) at 2.

⁵ See, for example, Comments of the Alliance for Public Technology, In the Matter of Federal-

universal service will occur most efficiently and effectively through robust facilities-based competition.

Consummation of the WorldCom/MCI merger would, however, eliminate the strongest potential competitor likely to invest in the local loop to serve residential and small business customers. Before the planned merger, MCI competed aggressively for such customers, and pledged to spend \$2 billion to build local facilities and to enter over 75 residential and small business markets in 1998.⁶ Yet, two days after the announcement of the proposed merger, WorldCom stated its intention to abandon MCI's local residential service plans in favor of a much less capital intensive focus on large and medium-sized businesses. The depth of WorldCom's commitment to this segment of the market is apparent from comments by the company's vice chairman and chief operating officer, John Sidgmore, at the time of the announcement. He confirmed that WorldCom's "religious focus is on the business customer. It is a jihad."⁷

WorldCom's avowed strategy of "cherry picking" the most lucrative business accounts, while disregarding residential and small business customers, significantly reduces the likelihood of meaningful competition in many areas. ILECs and IXCs fighting with the merged WorldCom for the most profitable customers will direct their advanced infrastructure investments to the high-end markets, leaving the last mile of the local loop to the home unbuilt. Consequently, the facilities-based

State Joint Service Board on Universal Service, CC Docket No. 96-45 (Dec. 19, 1996); and Comments of the Alliance for Public Technology, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98 (May 16, 1996).

⁶ Standard and Poors, *Telecommunications: Wireline*, Sept. 25, 1997, p. 13.

⁷ Mike Mills, "WorldCom Clarifies, MCI Plans; Bidder Pledges It Will Not Abandon Residential

competition on which the Commission and Congress are relying to stimulate ubiquitous and prompt deployment of advanced telecommunications technology has little chance of developing.

The proposed merger between WorldCom and MCI is the latest example of companies trying to amass market power through the acquisition of actual or potential competitors. In the restructuring of the telecommunications industry now underway, APT is particularly concerned that low income, rural and insular communities, which traditionally have received inadequate service, will continue to be excluded from the important benefits of advanced services. Thus, the communities with the most to gain from advanced telecommunications services, ranging from in-home health care to education and job training, would not have access to them. Recognizing this potential danger, Congress enacted Sections 254 and 706 of the 1996 Act to promote universal service and investments in advanced telecommunications infrastructure.

APT also fears that the merged entity, ignoring residential and small business customers, will divert lucrative business customers from the public switched network to its own private network. This exodus of large business customers will result in significant revenue shifts. The incumbent local exchange carriers, who continue to have carrier-of-last-resort obligations, will suffer significant revenue losses and probably raise rates for residential consumers. Predictably, they will also reduce network investment to the further detriment of communities already economically and socially disadvantaged.

The Alliance seeks a maximum contribution by telecommunications and

Customers',” *Washington Post*, Oct. 4, 1997.

information services to the quality of life of all Americans. We believe that our nation cannot reap the full benefits from advances in telecommunications technology unless there is equitable and affordable access by all consumers. A balanced policy that encourages both long distance, local and Internet competition can accelerate progress towards this maximum contribution. For example, local phone company entry into the long distance market can provide incentives for infrastructure investment and innovative services. It can also spur a strong retail marketing effort, both in the long distance and local markets.

Any proposed merger that results in significant market concentration requires safeguards to ensure the continued diffusion of technology to marginalized communities and infrastructure investment. Without such safeguards, the merged entity could harm universal service, abandon residential and small business consumers, and discourage infrastructure investment to marginalized communities.

We believe that Section 706 of the 1996 Act provides the Commission with the authority and the means to impose such safeguards should it permit the merger of MCI and WorldCom to proceed. In our view, Section 706 firmly supports such action, for the provision states that the Commission and its state counterparts, shall encourage timely deployment of advanced telecommunications capability to all citizens by

utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, **measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.** (Emphasis added.)

Accordingly, we recommend that the Commission condition any approval to transfer control of telecommunications licenses and properties in this and future transactions, on a requirement that the surviving company use some portion of the “synergy savings” to deploy advanced telecommunications infrastructure to traditionally underserved areas. The Commission is already using social contracts in the cable industry to stimulate infrastructure development by giving companies pricing flexibility in exchange for system upgrades.⁸ Similarly, the Community Technology Fund that resulted as a condition of the California Public Utility Commission’s approval of the merger between SBC and Pacific Telesis provides an example of a state’s innovative use of its authority under Section 706 to promote the advanced infrastructure investment that Congress intended.⁹ We urge the Commission to seriously consider adopting this “other regulating method” to remove barriers to infrastructure development.

In conclusion, APT requests that the Commission carefully examine the applicants’ petitions to ensure that the proposed transaction neither harms universal service nor detracts from the continued growth and development of the telecommunications industry. In addition, although the Commission has no jurisdiction to regulate the Internet, it should take this opportunity to examine the

⁸ See, for example, In the Matter of Social Contract for Comcast Cable Communications, FCC 97-75, (Oct. 10, 1997).

⁹ Order Denying Rehearing and Modifying D.97-03-067, In the Matter of the Joint Application of Pacific Bell Telesis Group (Telesis) and SBC Communications, Inc. (SBC) for SBC to Control Pacific Bell (U1001), Which Will Occur Indirectly as a Result of Telesis Merger With a Wholly Owned Subsidiary of SBC, SBC Communications (NV) Inc., Decision 97-11-035 (Nov. 5, 1997).

planned merger's impact on Internet development -- addressing investment incentives in the context of growing concentrations of market power in the Internet industry.

If the Commission determines that the proposed WorldCom and MCI merger serves the public interest, then we strongly suggest, as a condition of approval, that it require the merged company to invest in telecommunications infrastructure for underserved communities.

Respectfully submitted,



Barbara O'Connor
Chair



Donald Vial
Policy Committee Chair



Maureen Lewis
General Counsel

The Alliance for Public
Technology
901 Fifteenth Street, N.W., Suite
230
Washington, DC 20005
(202) 408-1403

CERTIFICATE OF SERVICE

I, Sheila Thompson, a secretary for Alliance for Public Technology, hereby certify that on the 26th day of January, 1998, copies of the foregoing "Response of the Alliance for Public Technology" were hand delivered, or deposited in the U.S. mail, postage prepaid*, addressed to:

Magalie Romas Salas
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, DC 20554
(original + 4 copies)

Geraldine Matise
Chief, Network Services Division
Common Carrier Bureau
Federal Communications Commission
2000 M Street, N.W. Room 235
Washington, DC 20554
(2 copies)

Chairman William E. Kennard
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

International Reference Room
International Bureau
Federal Communications Commission
2000 M Street, N.W. Room 102
Washington, DC 20554
(2 copies)

Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W. Room 832
Washington, DC 20554

Wireless Reference Room
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W. Room 5608
Washington, DC 20554
(2 copies)

Commissioner Gloria Tristiani
Federal Communications Commission
1919 M Street, N.W. Room 802
Washington, DC 20554

Robert M. Pepper
Chief, Office of Plans and Policy
Federal Communications Commission
1919 M Street, N.W., Room 822
Washington, DC 20554

Commissioner Michael K. Powell
Federal Communications Commission
1919 M Street, N.W. Room 802
Washington, DC 20554

International Transcription Service, Inc.
Federal Communications Commission
2100 M Street, N.W. Room 140
Washington, DC 20037

Commissioner Harold Furchtgott-Roth
Federal Communications Commission
1919 M Street, N.W. Room 844
Washington, DC 20554

Elliot Maxwell
Deputy Chief, Office of Plans and Policy
Federal Communications Commission
1919 M Street, N.W., Room 822
Washington, DC 20554

Michael Nelson
Office of Plans and Policy
Federal Communications Commission
1919 M Street, N.W., Room 822
Washington, DC 20554

*Michael H. Salsbury
Mary L. Brown
Larry A. Blosser
MCI Communications Corporation
1801 Pennsylvania Avenue, N.W.
Washington, DC 20006-3606

*Catherine R. Sloan
Robert S. Koppel
WorldCom, Inc.
1120 Connecticut Avenue, N.W.
Washington, DC 20036

Sonja Rifken
Special Assistant, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, DC 20554

*Andrew D. Lipman
Jean L. Kiddoo
Swidler & Berlin, Chtd.
3000 K Street, N.W., Suite 300
Washington, DC 20007


Sheila Thompson